

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARK J. SVEN TEK,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 08-140 Erie
)	
MARDI L. VINCENT, et al.,)	
)	
Respondents.)	

MEMORANDUM ORDER

This petition for writ of habeas corpus was received by the Clerk of Court on May 8, 2008, and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's Report and Recommendation [66], filed on May 19, 2009, recommends that Petitioner's Motion for Summary Judgment [36] be denied, that the instant Petition for Writ of Habeas Corpus be denied, and that a certificate of appealability also be denied. The parties were allowed ten (10) days from the date of service in which to file objections. Service was made on Petitioner by certified mail at SCI Laurel Highlands, where he is incarcerated. Petitioner has filed no objections to Chief Magistrate Judge Baxter's Report and Recommendation. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 16th day of June, 2009;

IT IS ORDERED that the Petitioner's Motion for Summary Judgment [36] be, and hereby is, DENIED and the instant Petition for Writ of Habeas Corpus be, and hereby is, DENIED. Inasmuch as jurists of reason would not find it debatable that Petitioner's first habeas claim lacks merit and his second habeas claim is unexhausted

and procedurally defaulted, IT IS FURTHER ORDERED that a certificate of appealability is also denied.

The Report and Recommendation of Chief Magistrate Judge Baxter, filed on May 19, 2009 [66], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
SEAN J. McLAUGHLIN
United States District Judge

cm: All parties of record
Susan Paradise Baxter, Chief U.S. Magistrate Judge